

PAID

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

FILED  
U.S. BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS  
OCT 30 PM 4:4  
JULIA A. O'NEAL  
CLERK

IN RE: )  
 )  
THE HARROLD FAMILY LIMITED ) CASE NO. 01-16128 - BHL-11  
PARTNERSHIP, )  
 )  
Debtor. )  
\_\_\_\_\_ )

MOTION FOR RELIEF FROM AUTOMATIC STAY

The Petitioner, Farmers Bank, by counsel, Bruce D. Brattain and Mario Garcia, for its Motion for Relief from Automatic Stay pursuant to 11 U.S.C. §362(b)(2) and 11 U.S.C. §362(d), alleges and says:

1. On October 18, 2001, the Debtor filed a voluntary petition pursuant to Chapter 11 of the United States Bankruptcy Code.

2. The Petitioner and the Debtor are parties in the matter of Farmers Bank v. James R. Harrold and The Harrold Family Limited Partnership, Marion Superior Court, Cause No. 49D06-0012-CP-001777.

3. Petitioner obtained a judgment against James R. Harrold, a general partner of the Debtor, on May 30, 2001 in the amount of One Hundred Seven thousand Eight Hundred Sixty and 06/100 Dollars (\$107,860.06).

DOCUMENT NO. 12

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4. Pursuant to a proceeding supplemental Writ of Execution the Petitioner obtained and seized three antique cars ("Vehicles") which were in the possession of James R. Harrold.

5. It was subsequently discovered that the titles to the Vehicles were fraudulently conveyed for no consideration by James R. Harrold to the Debtor in July and August, 1997.

6. On or about June 7, 2001, the Petitioner filed a Lis Pendens Notice with the Marion County Recorder's Office with respect to James R. Harrold's residence located at 9343 Seascapes Drive, Indianapolis, Indiana 46256 ("Home").

7. It was subsequently discovered that the Home was fraudulently conveyed for no consideration by James R. Harrold to the Debtor on or about November 20, 2000.

8. The Petitioner has alleged that certain assets of James R. Harrold were fraudulently conveyed and titled in the name of the Debtor to avoid the reach of his creditors.

9. The Marion Superior Court set the matter for a hearing on November 5, 2001, to determine whether the Debtor is the alter ego of James R. Harrold, and whether the assets of the Debtor, specifically, the Vehicles and Home, are subject to execution by the Petitioner to satisfy its judgment against James R. Harrold.

10. The Petitioner seeks an Order lifting the automatic stay so that litigation can proceed in the state court action to resolve this issue.

11. It has been generally indicated by the Indiana Court of

Appeals that relief of stay is needed before state court litigation involving a debtor can proceed. Reich v. Reich, 605 N.E.2d 1178 (Ind.App. 4 Dist. 1993).

WHEREFORE, the Petitioner prays that the Court enter an order granting relief from automatic stay so that the litigation may proceed to completion in the state court matter and for all other just and proper relief.

Respectfully submitted,

BRATTAIN & MINNIX

By

  
\_\_\_\_\_  
Bruce D. Brattain

Mario Garcia

151 N. Delaware Street, #760  
Indianapolis, Indiana 46204  
(317) 231-1750

Attorneys for the Petitioner

CERTIFICATE OF SERVICE

Service of the foregoing was made by placing a copy of same in the United States first-class mail, postage prepaid this 30<sup>th</sup> day of October, 2001, addressed as follows:

Leonard Opperman  
KUNZ & OPPERMAN  
135 N. Pennsylvania St., #1750  
Indianapolis, Indiana 46204

United States Trustee  
101 West Ohio St., #1000  
Indianapolis, Indiana 46204

  
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Mario Garcia